

the impairments included in the Listing of Impairments as issued by the Social Security Administration and as amended from time to time (20 CFR part 404, subpart P, appendix 1); or whether the impairment(s) meet such other criteria which the agency by administrative ruling of general applicability has determined to be medically disabling.

(4) *Impairment(s) must prevent past relevant work.* If the claimant's impairment or combination of impairments is not medically disabling, the Board will then review the claimant's residual functional capacity (see § 220.120) and the physical and mental demands of past relevant work (see § 220.130). If the Board determines that the claimant is still able to do his or her past relevant work, the Board will find that he or she is not disabled. If the claimant is unable to do his or her past relevant work, the Board will follow paragraph (b)(5) of this section.

(5) *Impairment(s) must prevent any other work.* (i) If the claimant is unable to do his or her past relevant work because of his or her impairment or combination of impairments, the Board will review the claimant's residual functional capacity and his or her age, education and work experience to determine if the claimant is able to do any other work. If the claimant cannot do other work, the Board will find him or her disabled. If the claimant can do other work, the Board will find the claimant not disabled.

(ii) If the claimant has only a marginal education (see § 220.129) and long work experience (i.e., 35 years or more) in which he or she only did arduous unskilled physical labor, and the claimant can no longer do this kind of work, the Board will use a different rule (see § 220.127) to determine disability.

(c) Once a claimant has been found eligible to receive a disability annuity, the Board follows a somewhat different order of evaluation to determine whether the claimant's eligibility continues as explained in § 220.180.

[56 FR 12980, Mar. 28, 1991, as amended at 74 FR 63600, Dec. 4, 2009]

§ 220.101 Evaluation of mental impairments.

(a) *General.* The steps outlined in § 220.100 apply to the evaluation of physical and mental impairments. In addition, in evaluating the severity of a mental impairment(s), the Board will follow a special procedure at each administrative level of review. Following this procedure will assist the Board in—

(1) Identifying additional evidence necessary for the determination of impairment severity;

(2) Considering and evaluating aspects of the mental impairment(s) relevant to the claimant's ability to work; and

(3) Organizing and presenting the findings in a clear, concise, and consistent manner.

(b) *Use of the procedure to record pertinent findings and rate the degree of functional loss.* (1) This procedure requires the Board to record the pertinent signs, symptoms, findings, functional limitations, and effects of treatment contained in the claimant's case record. This will assist the Board in determining if a mental impairment(s) exists. Whether or not a mental impairment(s) exists is decided in the same way the question of a physical impairment is decided, i.e., the evidence must be carefully reviewed and conclusions supported by it. The mental status examination and psychiatric history will ordinarily provide the needed information. (See § 220.27 for further information about what is needed to show an impairment.)

(2) If the Board determines that a mental impairment(s) exists, this procedure then requires the Board to indicate whether certain medical findings which have been found especially relevant to the ability to work are present or absent.

(3) The procedure then requires the Board to rate the degree of functional loss resulting from the impairment(s). Four areas of function considered by the Board as essential to work have been identified, and the degree of functional loss in those areas must be rated on a scale that ranges from no limitation to a level of severity which is incompatible with the ability to perform those work-related functions.

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For the first two areas (activities of daily living and social functioning), the rating is done based upon the following five-point scale; none, slight, moderate, marked, and extreme. For the third area (concentration, persistence, or pace), the following five-point scale is used: never, seldom, often, frequent, and constant. For the fourth area (deterioration or decompensation in work or work-like settings), the following four-point scale is used: never, once or twice, repeated (three or more), and continual. The last two points for each of these scales represent a degree of limitation which is incompatible with the ability to perform the work-related function.

(c) *Use of the procedure to evaluate mental impairments.* Following the rating of the degree of functional loss resulting from the impairment(s), the Board then determines the severity of the mental impairment(s).

(1) If the four areas considered by the Board as essential to work have been rated to indicate a degree of limitation as “none” or “slight” in the first and second area, “never” or “seldom” in the third area, and “never” in the fourth area, the Board can generally conclude that the impairment(s) is not severe, unless the evidence otherwise indicates that there is significant limitation of the claimant’s mental ability to do basic work activities (see § 220.102).

(2) If the claimant’s mental impairment(s) is severe, the Board must then determine if it is medically disabling using the Board’s prior conclusions based on this procedure (i.e., the presence of certain medical findings considered by the Board as especially relevant to a claimant’s ability to work and the Board’s rating of functional loss resulting from the mental impairment(s)).

(3) If the claimant has a severe impairment(s), but the impairment(s) is not medically disabling, the Board will then do a residual functional capacity assessment for those claimants (employees, widow(er)s, and children) whose applications are based on disability for any regular employment under the Railroad Retirement Act.

(4) At all adjudicative levels, the Board will, in each case, incorporate

the pertinent findings and conclusions based on this procedure in its decision rationale. The Board’s rationale must show the significant history, including examination, laboratory findings, and functional limitations that the Board considered in reaching conclusions about the severity of the mental impairment(s).

[56 FR 12980, Mar. 28, 1991, as amended at 74 FR 63600, Dec. 4, 2009]

§ 220.102 Non-severe impairment(s), defined.

(a) *Non-severe impairment(s).* An impairment or combination of impairments is not severe if it does not significantly limit the claimant’s physical or mental ability to do basic work activities.

(b) *Basic work activities.* Basic work activities means the ability and aptitudes necessary to do most jobs. Examples of these include—

(1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;

(2) Capacities for seeing, hearing, and speaking;

(3) Understanding, carrying out, and remembering simple instructions;

(4) Use of judgment;

(5) Responding appropriately to supervision, co-workers and usual work situations; and

(6) Dealing with changes in a routine work setting.

§ 220.103 Two or more unrelated impairments—initial claims.

(a) *Unrelated severe impairments.* Two or more unrelated severe impairments cannot be combined to meet the 12-month duration test. If the claimant has a severe impairment(s) and then develops another unrelated severe impairment(s) but neither one is expected to last for 12 months, he or she cannot be found disabled even though the 2 impairments in combination last for 12 months.

(b) *Concurrent impairments.* If the claimant has 2 or more concurrent impairments which, when considered in combination, are severe, the board must also determine whether the combined effect of the impairments can be expected to continue to be severe for 12